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INTERNAL AUDIT REPORT NO. 2017-046

OFFICE OF INSPECTOR GENERAL



Audit of Private Prison Contract Monitoring

June 26, 2018

EXECUTIVE SUMMARY

Florida Statutes¹ provide that state agencies are responsible for enforcing the terms and conditions of all contracts and ensuring that contract deliverables are appropriately satisfied. Pursuant to statute,² the Department of Financial Services' (DFS) establishes and disseminates uniform procedures to state agencies to ensure contractual services have been rendered in accordance with contract terms before the state agencies process invoices for payment. Contract monitoring is essential to achieving desired results in a responsible way. Monitoring provides the program area with the information necessary to assess the fiscal and programmatic accountability of service providers. Contract monitoring helps provide qualitative observations and information on how well services are being provided and whether desired service outcomes are being achieved. Additionally, contract monitoring provides a basis for identifying performance problems as early as possible so that corrective action may be taken timely. Monitoring also helps program areas determine whether to renew contracts.

The audit revealed that the Private Prison Monitoring Bureau (bureau) of the Division of Specialized Services (division) has implemented one of the more mature contract monitoring systems in the department. We noted that the bureau has dedicated onsite contract monitors and that the program has the following key components for an effective system:

- Documented contract with clear expectations to vendor;
- Documented monitoring plan with written policies and procedures;
- Payments linked to satisfactory performance and use of consequences for poor performance;
- Access to vendor records and systems for monitors;
- Timely communication with vendor regarding monitoring results;
- Dispute resolution procedures; and
- Monitoring activities that align with the American Correctional Association (ACA), the Department of Corrections (DOC) and contract requirements and standards.

As noted in our previous audit³ of the contract monitoring processes in the department, the audit revealed that some of the elements of contract monitoring outlined by statute and DFS have been implemented to some degree. However, there are areas that can be improved.

The bureau's overall monitoring process would be improved by enhancing the monitoring process and procedures in the following areas:

- ***Risk assessment based monitoring*** - Implement a formal risk assessment as prescribed by the participant guide⁴ to outline the significance of the performance indicators to help management be able to determine the appropriate frequency for assessing vendor performance for the related indicators contained in the Contact Performance Indicator (CPI) tool assessment. Also, identify risk factors and perform a risk assessment for each

¹ Section 287.057, Florida Statutes (F.S.)

² Subparagraph 287.057(14)(a), F.S.

³ Audit of the Management of Third Party Service Providers, Report No. 2017-25, published December 29, 2017

⁴ Florida Certified Contract Manager: Participant Guide for Contract and Grant Managers 2016-2017

of the correctional facilities so that the assessment of the vendor's performance will be based on facility specific risks.

- **Monitoring plan procedures and evidence** - *Update the monitoring tool to include more specific procedures to be used in evaluating the indicators. Also, add specific sampling procedures where appropriate and outline requirements for documentation of the results, including where comments are required.*
- **Position Descriptions** - *Update all position descriptions for onsite contract monitors so that they are consistent, clear, and compliant regarding current expectations, procedures, and practices.*
- **Supervisory Review of the Monitoring Results** - *Implement specific review procedures for all levels of review of the CPI tool assessment process.*
- **Annual Report to Agency Head** – *Update procedural manual to reflect current practices and implementation of an annual report on the overall performance for each correctional facility.*
- **Training** - *Consider formal training for new onsite contract monitors and ongoing training to help ensure that required changes in the processes are properly communicated and implemented.*
- **Objectivity of Assessment** – *Consider implementing alternate programs to help ensure monitoring results are unbiased and objective.*

BACKGROUND

The Department of Management Services (department) is the business arm of the State of Florida government. Some of the department's primary objectives include improving services and reducing administrative overhead. In 1985, the Florida Legislature authorized DOC to contract with private vendors to design, construct, and operate correctional facilities if substantial savings could be realized. Later, in the 1993 Legislative Session, the Correctional Privatization Commission (CPC) was created for the purpose of entering into contracts with contractors to acquire, design, finance, construct, lease, and operate private correctional facilities. Effective July 1, 2004, the oversight responsibility of the privately operated correctional facilities was transferred from the CPC to the department's bureau.

In accordance with Chapter 957, Florida Statutes (F.S.), the bureau is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities. The bureau is also responsible for monitoring the activities of the contractors to ensure that service providers meet state contract terms and perform adequately before receiving payments.

Overall, the bureau performs the following duties:

- Ensures that the major procurement processes are handled successfully;
- Ensures the swift and cost-effective design and construction of new correctional facilities;
- Ensures the operation of correctional facilities in a way that provides effective protection of the public safety;
- Ensures educational, treatment, and vocational programs are provided that are capable of reducing recidivism; and,
- Achieves and maintains cost savings for the State of Florida.

The bureau currently oversees the operational contracts of the following private correctional facilities:

1. Bay Correctional Facility
2. Blackwater River Correctional Facility
3. Gadsden Correctional Facility
4. Graceville Correctional Facility
5. Lake City Youthful Offender Facility
6. Moore Haven Correctional Facility
7. South Bay Correctional Facility



The employees of the bureau who monitor the daily operations of the facilities for contract compliance and coordinate actions and communications between the DOC, the department, and the contractor are the Onsite Contract Monitors (monitor). The monitor is designated by the bureau as the official liaison between the bureau and the contractor on all onsite matters pertaining to the operation and management services of the facility.

The DFS Chief Financial Officer's (CFO's) Memorandum No. 06 (2011-2012), *Contract Monitoring and Documenting Contractor Performance* (CFO Memo #6 (11-12)), sets the requirement for each agency to have a formal contract monitoring process. The CFO's memoranda and guidance specifically outline requirements and methodology for completing a risk assessment in developing a monitoring plan to assess and document service provider performance.

AUDIT OBJECTIVES

The objective of this audit was to assess the effectiveness of the contract monitoring program for the private prisons within the department.

The audit objective was accomplished using the following procedures:

- Review of the contract monitoring tool for completeness and effective monitoring methodology;
- Review of contract requirements;
- Review of roles and responsibilities within the monitoring bureau;
- Review of monitoring staff background and qualifications;
- Benchmark the contract monitoring program against programs used in other states; and,
- Review of monitoring activities and results for each of the selected prisons over the past year.

SCOPE AND METHODOLOGY

The fiscal year 2016-17 Annual Internal Audit Risk Assessment noted that the department uses many service providers throughout its divisions to perform various functions, including the operation of the private correctional facilities. As noted in a previous audit report,⁵ outsourcing functions to service providers can produce risk. As a result, an audit project was included in the fiscal year 2016-17 audit plan to evaluate the adequacy and effectiveness of procedures and

⁵ Audit of the Management of Third Party Service Providers, Report No. 2017-25, published December 29, 2017

controls for managing service providers. As previously stated, December 2017, the Internal Audit unit published an audit report on the management of third party service providers.⁶ This audit of the bureau's contract monitoring is an extension of the audit plan's focus on service provider management. The audit also focused on the following components important to an effective internal control framework:

- 1) **Control Environment** – assignment of authority and responsibility along with internal policies;
- 2) **Risk Assessment** – assess potential risks or gaps in existing internal controls, policies, and processes to achieve organization-wide objectives and manage change;
- 3) **Control Activities** – the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system;
- 4) **Information and Communication** – the quality of information and effective communication; and
- 5) **Monitoring** – activities management establishes and operates to assess the quality of performance over time and to promptly resolve identified deficiencies.

Currently, there are seven private correctional facilities operated by the following contractors:

Private Correctional Facility	Offenders	Contractor
Bay Correctional Facility	Adult Male	The GEO Group, Inc.
Blackwater River Correctional Facility	Adult Male	The GEO Group, Inc.
Gadsden Correctional Facility	Adult Female	Management and Training Corporation
Graceville Correctional Facility	Adult Male	The GEO Group, Inc.
Lake City Youthful Offender Facility	Male Youthful	CoreCivic
Moore Haven Correctional Facility	Adult Male	The GEO Group, Inc.
South Bay Correctional Facility	Adult Male	The GEO Group, Inc.

Table 1 – List of private correctional facilities and contractors during the audit period

Section 20.055, F.S., is the authority used to conduct the audit. Also, the audit was performed in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and with the Office of Inspector General's Internal Audit policies and procedures. The following private correctional facilities were selected for this audit:

- Bay Correctional Facility,
- Gadsden Correctional Facility,
- Graceville Correctional Facility, and
- Lake City Youthful Offender Facility.

⁶ Audit of the Management of Third Party Service Providers, Report No. 2017-25, published December 29, 2017.

SUMMARY OF FINDINGS**Finding 1**
Risk Assessment Based Monitoring

The bureau developed a performance monitoring tool referred to as the CPI tool, to periodically assess vendor performance in operating the correctional facilities. The tool is very thorough and includes all related contract requirements. The complete tool contains over 600 indicators and is divided into four segments.

- Tool A and B are assessed every other month by the monitors.
- A quarterly tool completed by the monitors' supervisors.
- A maintenance tool completed by department staff from the Real Estate Development and Management division.
- A tool used to measure the medical portion of the performance indicators completed by a third party service provider.

A review of the contract management and monitoring guidance noted that a risk assessment is recommended as the basis for developing the monitoring tool. During interviews and discussions with division and bureau management, monitors and their supervisors, everyone agreed that the performance indicators had different levels of risk associated with them. Staff identified security, care and comfort, and programming as the priorities, respectively. In addition, staff also agreed that certain factors, including different vendors, different types of inmate populations, and different staffing issues produce varying levels of risks at the correctional facilities.

Despite the different levels of significance for each of the performance indicators and the varying factors between facilities, a tool with the same indicators is used at each of the seven correctional facilities and all of the indicators are monitored at the same frequency. The bureau has not completed an assessment of the risk associated with each of the performance indicators. In addition, the bureau has not performed a risk assessment for each of the private correctional facilities.

The DFS CFO Memo No. 06 (2011-2012), *Contract Monitoring and Documenting Contractor Performance*, requires agencies to complete a risk assessment as a component of a formal contract monitoring process when an agency has a "large number of agreements". According to the jointly issued DFS and department *Florida Certified Contract Manager: Participant Guide for Contract and Grant Managers 2016-2017 (participant guide)*, each agency should identify the criteria and evaluation method for conducting a risk assessment for their contracts. Also, the guide states that the agencies "should maintain documents of all the risk factors, how each agreement was scored based on the risk factors, and the final score."

Without preparing a sufficient risk assessment, incorporating the varying risk factors, and determining the appropriate significance for each indicator in the monitoring tool at each facility, the monitoring of the operations may not be effective because the focus and frequency may not be appropriate.

We recommend that management update their monitoring tool by completing a risk assessment as prescribed by the participant guide to outline the significance of the performance indicators. This should help management to determine the appropriate frequency for assessing vendor performance for the related indicators for each facility. **Also, we recommend** that management identify risk factors and perform a risk assessment for each of the correctional facilities so that the assessment of the vendor's performance will be based on the related risks.

Management Response:

Concur: The Bureau/PPM concurs with the IG audit recommendation to complete a risk assessment on the monitoring tool. PPM sought assistance from DMS' OIG and Project Management Office to complete said risk assessment. Unfortunately, neither office is able to satisfy this large request within existing resources. PPM continues to explore options to have this risk assessment completed.

<p style="text-align: center;">Finding 2 Monitoring Plan Procedures and Evidence</p>
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Management has documented an established methodology for each performance indicator. The monitors are to follow the methodology when completing the assessment. During the audit, we surveyed the monitors regarding the estimated time to complete their assessment for each indicator and noted significant differences among some indicators. A review of a sample of 50 (8.5%) indicators noted that sometimes the time to complete the assessments varied as much as 100%. Further analysis and discussion with the monitors noted that the main reason for these differences related to the steps used to complete the assessment. The monitors are not required to document the steps used to complete their assessment in their results.

During the onsite visits at the correctional facilities, we completed assessments of a sample of performance indicators from the monthly monitoring tools. Below is a list of the noncompliant indicators we noted while recent assessments reported these areas in compliance:

- A review of a sample of program or Academic classes noted three instances where class attendance was not consistent with the sign-in sheets although the sign-in sheets agreed with the roster.
- A review of firearm cards and officers' temporary certifications noted expired statuses.
- A review of correctional officers' uniforms noted one officer who did not have his badge and several officers who did not have body alarms or gas equipment on their person.
- We noted grievances returned without indicating what the inmates needed to do to correct them. Also, we noted that grievances were corrected by the coordinator although the form noted the grievance was denied because it may have been on the wrong grievance form. One of the grievance coordinators discussed making sure the number of grievances approved was low.
- We observed that the Disturbance Armed Response Team's (DART) performance was not always in compliance with established guidelines.

Monitors are also not required to provide comments regarding the results of their assessment. The results of the assessment for each indicator is documented by selecting compliance,

noncompliance or not applicable for each indicator on the tool. During the audit, we noted that comments are not always included for performance indicators marked as noncompliant.

The participant guide states that the plan should outline what monitoring procedures will be most appropriate, the sampling procedures, and the required documentation. Without incorporating the sampling procedures, the specific steps to take for each indicator, and the documentation to be reviewed, monitoring activities could vary significantly yielding different and inconsistent results.

To ensure that performance indicators are assessed consistently and according to management's expectations, **we recommend** that management update the monitoring tool procedural manual to include more specific tasks/steps for evaluating the indicators. Also, **we recommend** that management add specific sampling procedures where appropriate and outline requirements for documentation of the results, including when comments should be required.

Management Response:

Concur: PPM concurs with the IG audit recommendation to update the monitoring tool procedural manual with specific steps to allow a consistent rating on the tool and reinforce the update during onsite contract manager training. The manual revision will include expectations for documentation and comments.

<p style="text-align: center;">Finding 3 Position Descriptions</p>
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During the audit, we reviewed the position descriptions of the monitors for compliance with Florida Statutes⁷ and noted the following:

- Recently management updated position descriptions for new hires. However, the changes made have not been consistent, resulting in position descriptions that are not uniform.
- The percentage of time for duties and responsibilities are not the same.
- The position descriptions reference a draft report of the CPI monitoring tool results prepared by the monitors. However, no report summarizing the results of the monthly monitoring is prepared. The actual assessment document, which contains almost 300 indicators, is distributed to the vendor without summary or conclusion.
- The position descriptions outline that monitors are able to re-evaluate certain indicators originally assessed as noncompliant ("*minor*") during the month if the vendor is able to correct them on the spot. We noted during the audit inconsistent procedures in how this is applied. Some monitors have identified what they have determined to be 'minor' noncompliance indicators while others use this as a global approach.

Pursuant to subparagraph 110.2035(5)(a), F.S., the employing agency shall maintain on a current basis a position description for each authorized and established position assigned the agency. The position description shall include an accurate description of assigned duties and responsibilities and other pertinent information concerning a position, and shall serve as a record of the official assignment of duties to the position.

⁷ Subparagraph 110.2035(5)(a), F.S.

Without position descriptions that reflect consistency in current roles and responsibilities, staff may be unclear regarding duties and expectations. Monitoring activities become inconsistent, unreliable, and ultimately ineffective.

We recommend that management update all position descriptions for monitors so that they are consistent, clear, and compliant regarding current expectations, procedures, and practices.

Management Response:

Concur: PPM concurs with the IG audit recommendation to update the position descriptions for the monitors. The position descriptions have been updated to ensure consistent expectations. The updated position descriptions will be reviewed with each monitor, signed by all parties, and submitted to the Office of Human Resources within the next few weeks.

Finding 4

Supervisory Review of the Monitoring Results

A key component of an effective monitoring plan is ensuring that the activities are relevant, the procedures applied are consistent, and evidence documented is sufficient and appropriate to support results. Two supervisors within the bureau review and oversee monitoring activities completed by the monitors as well as complete assessments of some performance indicators. During the audit, we interviewed the supervisors to gain an understanding of the procedures used to complete their review and oversight. The supervisors stated that the completed tools are forwarded via email by the monitors for review. The supervisors also stated that once their review is completed the document is converted into a portable document format (PDF), and forwarded to the bureau chief who reviews and determines the next steps for any noncompliant indicators noted during the assessments.

We reviewed a sample of completed tools and noted the following:

- Bureau management had not developed specific procedures for the supervisors to use in completing their review;
- No evidence of the supervisor or the bureau chief's review was documented on the actual document;
- Indicators marked not applicable that should have been completed; and,
- No consistency in how questions and feedback from the review were documented and communicated to the monitors.

Specific criteria and procedures for the supervisory review helps ensure consistent assurance that monitoring activities performed are relevant, consistently applied, appropriately documented, and that evidence is sufficient. Ultimately, this helps ensure the effectiveness of the monitoring plan.

We recommend that management implement specific and standard procedures for all levels of review of the CPI tool assessment process.

Management Response:

Concur: PPM concurs with the IG audit recommendation to develop specific procedures for all levels of review of the CPI tool assessment process. PPM will include this section in the monitoring tool procedural manual revisions referenced in Finding #2.

**Finding 5
Annual Report to Agency Head**

During the audit, we reviewed the CPI procedural manual and noted that the manual references an annual report to be prepared and submitted to the department Secretary. However, the bureau has not prepared such a report. Management stated during further discussions that this report is not currently prepared. We noted in an earlier audit, that current department policies and procedures reference an overall assessment report be performed for vendors before the contract ends. This is also a noted best practice when using third party service providers to perform key functions.

The periodic reporting to the vendor regarding performance includes the actual worksheets with almost 300 indicators and notice of further action, if assessed by the bureau chief. An annual report of overall performance would provide summarized and conclusive communication to the vendors. Also, an annual report to the department Secretary would provide important information regarding vendor performance and monitoring efforts.

We recommend that management update the procedural manual to reflect current practices. Also, **we recommend** management consider the implementation of an annual report on the overall performance for each correctional facility.

Management Response:

Concur: PPM concurs with the IG audit recommendation to implement an annual report submission for each facility. PPM electronic files include annual reports from FY04 through FY10. Information included: organization charts; current operations; operating costs; deductions and liquidated damages; facility profiles; trust fund overviews; inmate programmatic services; personnel screening and continuing endeavors. A similar format will be implemented for the annual report. Historical files can be found at S:\PPM\Annual Report.

**Finding 6
Training**

As mentioned earlier in this report, during the audit we noted inconsistencies in how the monitors performed their monitoring activities and documented their results. When discussing the process for training monitors, the bureau chief and supervisors stated that new monitors are trained by their supervisors and fellow monitors until the monitor feels comfortable completing the tool. They noted that this usually takes about two months. Once the training is complete, the monitors contact the supervisor and other monitors with questions. We noted that there is neither a formal training program for new monitors nor any formal ongoing training.

As a part of the audit, we reviewed the policies and procedures manual for the CPI tool assessment and noted that while they include information about the tool, it does not provide a detailed guide for conducting the monitoring activities. The participant guide recommends each agency provide agency specific training to staff managing and monitoring contracts.

Formal training is key to ensuring that contract monitoring activities are performed reliably. Also, formal training reduces inconsistencies in the monitoring process and helps ensure clarification.

We recommend that management consider formal training for new monitors. Also, **we recommend** that management consider ongoing training to help ensure that required changes in the processes are properly communicated and implemented.

Management Response:

Concur: PPM concurs with the IG audit recommendation to complete ongoing training for the monitors. PPM is planning semi-annual or quarterly meetings, each at a different facility and at least one in Tallahassee. During this meeting/staff retreat, ongoing training, document revisions, and other business related to the bureau will be covered. Currently, the monitors participate in FL Department of Corrections training opportunities. The revised CPI monitoring tool manual referenced in Finding #2 will sufficiently explain the steps and expectations of completing the tool. New monitors will continue to be mentored by the bureau chief, supervisors, and fellow monitors until confidence and competence is gained.

Monitors participate in FDC's mandatory in-service training for non-certified staff. FDC develops an annual master training plan. During FY18, classes included Advanced HPPAA, Americans with Disabilities Act Training, CPR Basics, Emergency Topics, Entrance and Exit from Institutions, First Aid for the Community & Workplace, Health & Safety, Human Trafficking, Information Security Awareness Training, Inmate Relations Topics, Intro to Spectrum, Legal Review, Mental Detox, Prison Rape Elimination Act, Recognizing Security Threat Groups, Unauthorized Cell Phone & Electronic Device Use, and Use of Force Topics. Those staff that have officer certifications will participate in additional course offerings from FDC for certified staff.

<p style="text-align: center;">Finding 7 Objectivity of Assessment</p>
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Objectivity is an important factor in helping ensure reliable assessment and effective monitoring activities. As a part of the audit, we discussed and reviewed the background of each of the monitors. All but one of the monitors are former correctional officers. This background and previous experience provides them with needed knowledge of DOC standards and regulations as well as the ACA regulations and standards. While onsite we noted that some of the monitors had been correctional officers in facilities where some current inmates were housed previously. In addition, we noted that monitors may have worked or are friends with correctional officers working in the facilities they monitor.

While this background and experience is important to effective monitoring activities, these factors could introduce bias into the monitoring process. We found during the audit that management had implemented a procedure to have monitors rotate between correctional facilities for one week to

perform monitoring activities and that one of management's objectives was to help ensure monitoring objectivity. However, the monitors rotate to the same facilities (*closest to their homes*) each month and are only completing a small part of an assessment. These factors may diminish the ability to achieve the goal of the rotation.

We recommend management consider implementing alternate programs to help ensure objectivity. Some of the options noted during our research include the following:

- Continuous rotation of monitors between facilities,
- Rotating monitors to perform a full assessment periodically, and
- Implementing an independent assessment by a third party periodically.

Management Response:

Concur: PPM concurs with the IG audit recommendation to implement a program to help ensure objectivity. The bureau proposes to implement semi-annual visits by teams to assess the full operations. Each assessment will have a specific tool developed to review trend data from previous reports, observations, and concerns but also include random indicators that are high risk but have not been trending issues. The teams will be led by the supervisor and comprised of the monitors. The bureau chief will participate in the out briefing for the assessment. The revised monitoring tool manual identified in Finding #2, should limit the ability to be subjective on the review. The bureau will seek opportunities to allow for an independent assessment by a third party periodically.

Additional reviews/audits are provided by independent entities to ensure respective areas of concern are within standards. FDC completes security, environmental health and safety, and classification audits; Department of Children and Families conduct annual license reviews of substance abuse programs; DFS Fire Marshal conducts annual life safety inspections; County Health Departments conduct food service inspections and canteen inspections; and Correctional Medical Authority conduct medical audits every three years and follow up until the corrective action plans are closed.

ACKNOWLEDGEMENTS

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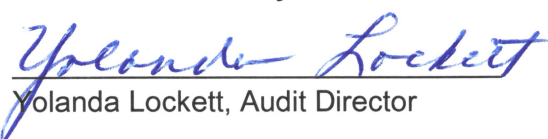
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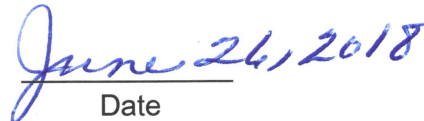
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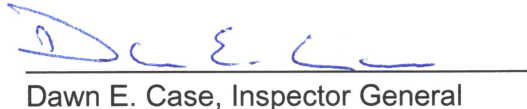
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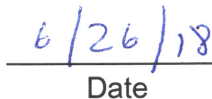
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